In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-107

MICHAEL P. KATRANIS AND CHRIST M. KATRANIS,
PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioners question the sufficiency of the two indictments returned against them and consolidated for trial, and of the evidence to sustain their convictions.

After a jury trial in the United States District Court for the Eastern District of Michigan, petitioners were convicted of (1) endeavoring to obstruct the communication to the FBI of information concerning federal gambling offenses, in violation of 18 U.S.C. 1510 and 2, and (2) unlawfully carrying firearms during the commission of a felony under federal law, in violation of 18 U.S.C. 924(c) and 2. Petitioner Michael Katranis was sentenced to consecutive terms

constitute the offence intended to be punished.' *United States* v. *Carll,* 105 U.S. 611, 612 (1882)." *Hamling* v. *United States,* 418 U.S. 87, 117.

The essential elements of the crime proscribed by 18 U.S.C. 924 are (1) the carrying of a firearm, (2) unlawfully, (3) in the commission of a felony that may be prosecuted in a federal court. The indictment of which petitioners complain (Pet. App. D) charges that on a certain date petitioners "did unlawfully * * * carry certain firearms, to wit: two handguns, during the commission of the offense of obstruction of a criminal investigation, a felony prosecutable in a court of the United States * * * ." Thus the indictment went beyond a simple recitation of the words of the statute itself, explicitly alleged each essential element of the crime, and adequately apprised petitioners of the charges against them. This was more than enough to satisfy the test laid down in *Hamling, supra,* and petitioners' challenge to the sufficiency of the indictment is accordingly without merit.

2. Petitioners contend next (Pet. 18–24) that their threats to harm Nicolaou and his family if he went to the FBI related to an incident two years earlier when Michael Katranis had struck him. Even assuming that the beating inflicted on Nicolaou had elements of reprisal for a communication to the FBI two years before, the jury was entitled to believe on the evidence presented that petitioners had beaten the doorman of the hotel just before Nicolaou entered; that the violence was connected with petitioners' involvement in illegal gambling activities; and that the attack on Nicolaou was designed at least in part to deter him

from reporting to the FBI what he had seen and heard on this occasion. This was the theory espoused by the prosecutor in his opening argument (Tr. A 8–10), and it was amply supported by Nicolaou's testimony (Tr. A 23–36). Taking the view most favorable to the government (*Glasser* v. *United States*, 315 U.S. 60, 80), the evidence was sufficient to sustain petitioners' convictions for obstructing the communication of information concerning violations of federal law to a criminal investigator (18 U.S.C. 1510).

3. Petitioners' final claim (Pet. 24–30) is that the indictment under 18 U.S.C. 1510 was insufficient because it did not allege that the government agents to whom communication of criminal activity was obstructed were "criminal investigators" and because it charged obstruction by "threats" rather than by "threats of force."

a. The indictment charged petitioners with obstructing communications to "Special Agents of the Federal Bureau of Investigation" (Pet. App. C). The authority of Special Agents to receive and act upon information concerning federal law violations is well established. See 28 U.S.C. 533; 28 C.F.R. 0.85; *United States* v. *Blackfeet Tribe*, 364 F. Supp. 192, 194 (D. Mont.); *Cooper* v. *O'Connor*, 99 F. 2d 135, 139 (C.A. D.C.). Special Agents are therefore "criminal investigators" within the meaning of 18 U.S.C. 1510(b),[3] and

[3] That section provides that "the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States."